

## **PUBLIC EMPLOYEES RETIREMENT BOARD MEETING**

February 27, 2006

8:30 A.M.

A regular meeting of the Public Employees Retirement Board convened at 8:30 a.m., Monday, February 27, 2006, in the TierOne Community Meeting Room at 1221 N Street, Lincoln, Nebraska.

The Board members were notified of this meeting by letter dated February 17, 2006. Public notice of this meeting was published in the Lincoln Journal Star and Omaha World Herald on Monday, February 20, 2006. Mr. Peters chaired the meeting and Ms. Linder recorded the minutes.

### **MEMBERS PRESENT:**

CHARLES PETERS, CHAIR  
DENIS BLANK, VICE-CHAIR  
ROGER REA  
MARK SHEPARD  
GLENN ELWELL  
JUDGE GLENN CAMERER  
RICHARD WASSINGER  
CAROL KONTOR, EX-OFFICIO

### **MEMBERS ABSENT:**

DALE KAHLA

### **NONMEMBERS PRESENT:**

ANNA SULLIVAN  
Director  
JASON HAYES  
Legislative Retirement Counsel  
GARY BUSH  
DAS - State Budget Administrator's Office  
CINDY JANSSEN  
State Auditor's Office  
DEANN HAEFFNER  
State Auditor's Office  
MIKE KULAS  
Union Bank  
KRISTY LEITSCHUCK  
Union Bank

CHAD MELCHER  
Union Bank  
EVERETT FIDLER  
Member  
JEAN L. FIDLER  
Member  
TOM NESBITT  
Member  
JOHN MUNN  
Nebraska Department of Banking & Finance  
JILL STABERG  
Nebraska Department of Banking & Finance  
JACK HERSTEIN  
Nebraska Department of Banking & Finance

STEVE GRASZ

Blackwell Sanders

BEN MATTERN

Ameritas

ANDRÉ MICK

Legislative Performance Audit Analyst

DON ARP JR

Legislative Performance Audit Analyst

CINDY NICHOLS

Legislative Performance Audit Analyst

JOE SCHAEFER

Legal Counsel

JANE HANSEN

Retirement Plan Supervisor

RANDY GERKE

Accounting and Finance Manager

TERESA ZULAUF

Internal Auditor

SHEILA LINDER

Administrative Assistant

**Agenda Items 1 and 2 - Meeting Called to Order:** Chairperson Peters called the February 27, 2006, Board Meeting to order at 8:35 a.m. Present at roll call: C. Peters, D. Blank, R. Rea, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, and C. Kontor. Absent: D. Kahla.

**Excuse Board Members:** Mr. Blank moved to excuse Mr. Kahla. Mr. Rea seconded the motion. Members voted as follows: For: D. Blank, R. Rea, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, and C. Peters. Against: None. Motion carried.

**Agenda Item 3 - Approval of Minutes:** Mr. Rea moved that the minutes of the January 23, 2006, Board Meeting be approved. Motion was seconded by Mr. Shepard. Members voted as follows: For: R. Rea, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, C. Peters, and D. Blank,. Against: None. Motion carried.

**Agenda Item 4 - Approval of Budget Status Report & January Retirement Report:**

Ms. Sullivan reported that the budget hearing was held on January 30<sup>th</sup> before the Appropriations Committee. She reported that we had submitted a small budget deficit request for the Board's per diem for committee meetings, which was not accounted for in the original request. We also asked for an additional appropriation of \$14,817 for additional technical work that will be discussed during the Director's report. Also, Program 515, general fund appropriations for pension funding, was lowered from last year by approximately \$1.2 million. When the two-year budget was submitted, we estimated for the second half of the biennium. When actuarial results came in, they were less than estimated, so a letter was submitted indicating that we needed less than originally expected.

Mr. Blank moved to approve the budget status report and the January Retirement Report. Motion was seconded by Sgt. Elwell. Members voted as follows: For: M. Shepard, G. Elwell, G. Camerer, R. Wassinger, C. Peters, D. Blank, and R. Rea. Against: None. Motion carried.

**Agenda Item 5 - Annual School, Judges, and Patrol Audit Report:** Cindy Janssen and Diane Haeffner from the State Auditors Office were present. Ms. Janssen presented the School, Judges, and Patrol audit report for fiscal year ending June 30, 2005, and reviewed the Comment and Recommendations.

Mr. Rea asked if the auditors contact the employers when they find errors when they are doing their testing. Ms. Janssen stated they do not. They feel it is the responsibility of NPERS, so the auditors tell the employers NPERS will contact them directly. Mr. Rea noted that when NPERS notifies the employers of an error, the employer can choose to not correct the mistakes. Ms. Janssen stated they need documentation that a contact is made by NPERS then the issue will not show up as an exception on future reports. They are performing sampling procedures and test only a small portion of the payroll. Mr. Peters stated that NPERS has no line authority over the employers. Ms. Janssen stated that the employers have the responsibility to provide NPERS with complete and accurate information. Ms. Janssen noted that NPERS staff is now doing testing and sampling. In the future, their work in the counties and schools should decrease. Mr. Peters stated he does not feel sections 3 and 4 should be in report. Ms. Janssen stated they respectfully disagree. Sgt. Elwell asked if this issue will be removed in the next audit if NPERS documents the follow-up that is done with the employers. She stated if there is appropriate written documentation that shows NPERS has contacted the employer several times, it will not show up the following year.

Mr. Rea noted the graph on page 43 shows there was a huge jump for administrative expenses per member. Ms. Janssen stated she believes that is related to PIONEER. Ms. Sullivan stated PIONEER was financed through the State's Master Lease Program. This has increased our budget and is currently approximately \$2.5 million per year, which is a considerable percentage of our total budget.

Mr. Shepard asked which classes of school districts were included in the testing. Ms. Janssen stated, based on what the school districts contributed, they pulled out the top 100 and set them up on a four-year rotating basis. This is a mix between class 2, 3, and 4 school districts. They do 25 of the largest ones each year and randomly select five randomly from the remainder of the school districts.

**Agenda Item 6 - Annual Internal Audit Report:** Ms. Zulauf stated that Mr. Gerke and the Accounting team have basically cleaned up the issues in comment No. 1, with exception of "e" on page 8. On comment No. 2, PIONEER populates the information based on what period the contribution represents. The contribution may be for March, is not received until July, but is entered for March. Ms. Sullivan stated the law allows the person to repay a part of the refund. What we have done in designing PIONEER, is to take each individual contribution and the interest on that contribution, to come up with the repayment amount rather than the lump sum amount. Ms. Zulauf stated the oldest portion needs to be repaid first. The calculation had to be made in PIONEER to allow them to repay only part, as allowed by law.

With regard to School district testing and audit comment No. 4, we are working on sending letters to all of the school districts asking them for additional documentation. Ms. Zulauf stated that staff had a conversation with a school district where the school employer was willing to make the requested change, but the Superintendent decided there would not be a change because he had contacted other schools and they felt they were doing it correctly.

Judge Camerer asked if we contact the employee if an error in enrollment is found. Ms. Zulauf stated we contact the "contact person" for the School, which usually is the payroll person.

Mr. Peters stated he thought the State Auditor should contact the employee. Ms. Zulauf stated this is an audit of our system and it is not the responsibility of the State Auditors Office to contact the employee. Ms. Sullivan noted this a sampling and does not include all employees. She said the goal when taking a sample is to determine how the whole group of employees is handled by the school. To contact the employee directly could cause difficulty.

On No. 5, dealing with meal reimbursement, we have talked to the employee in question and have discussed with the employee the need for proper documentation and making sure documentation is completed. The lodging expense for the Board Retreat issue is the Board's decision.

Regarding the miscellaneous travel expenses and leasing of state vehicles, staff members sometimes load the vehicle prior to 4:00 p.m. because of the travel time needed to various parts of the state early the next morning. We have talked to them about trying to stay with the 4:00 p.m. timeframe to avoid an additional day's charge.

No. 6 is not our responsibility.

Mr. Shepard stated it bothers him when discussion was taking place regarding school district sampling that comments were made that staff contact the bookkeeper who contacts the superintendent and then calls back stating they are not going to comply. Mr. Shepard stated that is the exception because they take it seriously when they receive information from the Department of Education, their own auditor and the Retirement Systems.

Mr. Blank asked, with regard to the school district testing, if NPERS followed up with those districts as the Auditor's Office suggested. Ms. Zulauf stated she has a list of the schools in question and we are going to contact all of the schools, requesting documentation to make sure they are in compliance with the law and the definition of compensation. We are not contacting the individuals.

A copy of Ms. Zulauf's annual report was provided to the Board. She reported she has been working on a Risk Assessment. The managers will look at the daily processes and assess what type of risk or problems they see. This will help with doing some in-house reviews of our procedures and may help us clear up some of the audit findings.

She is also working on a procedure manual, which will also assist the Disaster Recovery Committee and will address an issue in audit point No. 1. She is also reviewing some of the office policies.

One of the main things she and her assistant, Ms. Mueller, want to work on this coming year is testing and sampling of employers. They sent letters to 19 counties and 4 schools. They have received information from 19 counties and 3 of the school districts. They would like to get at least 11 more counties contacted before the end of the year. They would like to get information cleaned up on 30 counties per year. Once that is completed in three years, they will go to testing 50 percent of the counties. They are working on demographic issues, gender issues, and hire dates. She stated it will take quite awhile to get through the 500 school

districts. They will contact some of the districts they know we have issues with. They will bring in some large school districts and some small ones, but will not bring in class 1 districts since we do not know what will be happening with their status in the years to come.

Ms. Zulauf works with Ms. Janssen to coordinate the items the auditors need for their audit. This year during the State and County Audit they will be auditing the Deferred Compensation Plan for the year ending December 31, 2005.

Ms. Zulauf has set goals to take care of the audit issues and keep up with the testing and sampling.

Judge Camerer asked how well she feels she is protected if there we had a technology failure. Ms. Zulauf stated the state is working on a disaster recovery plan. The Department of the Military is writing a state-wide disaster recovery plan. We are working on our own internal plan. The Disaster Recovery Team is working on remote locations, etc. Our people are working with state recovery team as well. The process, however, is not complete.

Mr. Rea moved to accept the two audit reports. Judge Camerer seconded motion. Members voted as follows: For: G. Elwell, G. Camerer, R. Wassinger, C. Peters, D. Blank, R. Rea, and M. Shepard. Against: None. Motion carried.

Judge Camerer moved as a matter of policy that employees and Board members try to educate themselves about the intricacies and details of the expense reimbursement system and act in compliance with that. Sgt. Elwell seconded the motion. Mr. Rea and Mr. Blank noted it is spelled out in our policies. Mr. Peters stated we have had retreats for several years in Nebraska City and this will be probably be continuing. It seems like a minor problem and it continues to appear. Members voted on the motion as follows: For: G. Camerer, R. Wassinger, C. Peters, D. Blank, R. Rea, M. Shepard, and G. Elwell. Against: None. Motion carried.

The Board took a break at 9:58 a.m. and reconvened at 10:13 a.m.

**Agenda Item 7 - Legislative Update:** Mr. Schaefer stated legislatively it has been busy lately. LB 366 is sitting on final reading. The bill deals with immediate participation upon hire and the State contribution rate will be a flat rate of 4.8%. Vesting will continue to be three years for State and County employees.

LB1019 is also on final reading as of last Friday. An amendment was made to address the vesting issue so it is clear there will be three years vesting whether or not LB 366 passes.

Mr. Schaefer stated that a bill that may be of interest to the Board is LB 898, which deals with the open meeting law. The bill has been advanced to General File with Committee Amendment. It requires both a motion and a restatement of why a body would go into executive session, it requires posting of open meeting laws at the location of where the meeting is held, and removes one of the hurdles to challenging an executive session decision.

Mr. Rea stated, with regard to LB 1142, if we change the way compensation is defined, there will be an actuarial impact. He asked if there is going to be a study done. Mr. Schaefer stated it is his understanding the intent is to have a study conducted in the interim. Mr. Hayes, who was in the audience, stated it is the Chair's intent to offer a study.

**Agenda Item 8 - Revised Board Policy No. 10:** Mr. Schaefer stated at the last meeting the Board authorized paying the Cash Balance dividend to those members who had not been active employees and at that time the Board requested that Board Policy No. 10 be modified to address the issue and clarify it. Mr. Blank noted that the final bullet should be reworded since the dividend will always be granted after January 1.

Ms. Sullivan stated we are waiting until the actuary has completed the valuation of the two Cash Balance plans before we grant the makeup dividend. Ameritas has identified everyone that was missed. We have the amount of dividend they will receive and will need to calculate the interest.

Mr. Rea moved for adoption of Board Policy No. 10 with the revision provided by Mr. Schaefer and the change to the last bullet as suggested by Mr. Blank. Judge Camerer seconded the motion. Members voted as follows: For: R. Wassinger, C. Peters, D. Blank, R. Rea, M. Shepard, G. Elwell, and G. Camerer. Against: None. Motion carried.

**Agenda Item 9 - Investment Council Update:** Ms. Kontor reported the Investment Council met the beginning of this month. The Search Committee narrowed down the original list of candidates for the State Investment Officer position to nine. After holding phone interviews with those nine, they narrowed it down to six who were interviewed in person. The Search Committee then narrowed it down to three candidates, who presented at the February NIC meeting. A candidate was selected for further consideration. The Council has not made an announcement at this time. The appointment is subject to the approval of the Governor and the Legislature. This person would not take the position until probably this summer. Ms. Kontor has agreed to stay on for the transition.

The Council revisited the issue on when to fund a high yield bond manager. They did select a manager in November, but because of the current market conditions they would not fund at that time. They have revisited and decided to fund over the next couple of months as market conditions warrant.

They reviewed hedge funds and decided they were not interested in it at this time.

They have been working on their annual report. For the calendar year ending December 31, 2005, the defined benefit plans returned 6.6% for the year. For the three years it is 13.6% and for the 10-year period it is 8.3%. Since inception of the recording process in 1983 it has been 10.4%. Over the long term, we are getting what the expected return is for the asset classes.

Ms. Kontor stated there was some press on a hearing on LB 1022. In 1994 the Legislature passed a section in the State Funds Investment Act. It provided that for corporations doing business in Northern Ireland the State Investment Officer is to invest state funds to encourage

the adoption of the McBride principles in Northern Ireland. In 1996 another section was added to that Act that distinguishes between the retirement plans, the state funds, and later the college savings plans. The investment obligation for the retirement plans is the exclusive benefit rule, that all decisions must be made for the exclusive benefit of plan beneficiaries and investments shall not be made if the primary objective is for social or economic objectives. Also, it talks about state funds, those investments shall be made solely in the interest of citizens of the State of Nebraska within the laws. In the December hearing in front of the Retirement Committee, she spoke and stated it could be construed that there is a conflict on what was adopted in 1994 and what was adopted in 1996 so it was being brought to the attention of the Legislature. NIC will continue the way their attorney has been advising them, but thinks it would be good to have it clarified.

Mr. Blank moved for approval of the State Investment Officer's Report. Sgt. Elwell seconded the motion. Members voted as follows: For: C. Peters, D. Blank, R. Rea, M. Shepard, G. Elwell, G. Camerer, and R. Wassinger. Against: None. Motion carried.

**Agenda Item 10 - Annual Agency Report to the Legislature:** Ms. Sullivan provided a draft copy of the Annual Report this morning. The report still needs to go through the editing process. Ms. Sullivan reviewed the accomplishments of NPERS for 2005. The final copy of the annual report will be provided to the Board at the March meeting and the report will be presented to the Legislature on March 22.

Mr. Rea asked what the status of placing beneficiaries on the annual statements is. Ms. Sullivan did not have a timeframe but stated she plans to eventually include on the annual statements who the member has on file as their designated beneficiaries.

**Agenda Item 11 - Director's Report:** Ms. Sullivan distributed a brochure for the School Retirement Planning Seminar and invited the Board members to attend a seminar.

Ms. Sullivan stated she attended the National Association of State Retirement Administrators (NASRA) Legislative Conference in Washington this month. This included the NASRA Directors Meeting. Mr. Rea also attended the conference and the two of them visited with our three representatives and two senators or their staff to give them a briefing on our concerns with pending federal legislation. Ms. Sullivan provided the Board members with a copy of letter that was sent to our senators and congressmen outlining the key components of pension bills.

Ms. Sullivan stated there were ten companies that expressed an intent to bid for the recordkeeping contract and we received four bids.

Public Broadcasting was here February 13 and spent the day. They taped one of the State retirement seminars. Frontline will be running the story on May 16<sup>th</sup>.

Judge Camerer moved to accept the Directors report. Mr. Rea seconded the motion. Members voted as follows: For: D. Blank, R. Rea, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, and C. Peters. Against: None. Motion carried.

**Agenda Item 12 - Chairperson's Comments/Board Committee Assignments for 2006:** A listing of proposed committee assignments was provided to the Board. If any of the Board members has a conflict, they should let Mr. Peters know so that changes can be made. The Legislative and Audit Committee is meeting today after the Board meeting.

Mr. Peters encouraged the Board to attend at least one education meeting. The NCTR Annual Conference is in Austin, Texas, in October. It is very productive with an emphasis on retirement issues, particularly on teacher issues.

**Agenda Item 13 - Public Comments or Correspondence from Citizens:** Tom Nesbitt addressed the Board about his administrative appeal which was on the agenda for action on the recommendation made by the hearing officer. Mr. Schaefer noted that the hearing had been held and that Mr. Nesbitt's public comments would not be a part of the hearing record. Mr. Nesbitt stated he disagreed with the recommendation of the hearing officer and offered a document which he said supported his position. The document was not received into the record.

Jill Staberg, Personnel Officer for the Nebraska Department of Banking and Finance. She stated she was present in support of one of their employees, T. Stutzman, whose application for vesting credit was denied due to the 30-day deadline being missed. She asked the Board to reconsider this matter since it was her mistake as Personnel Officer. She stated she is new to benefits and retirement and was not aware of the vesting credit application or its deadline until after Ms. Stutzman's 30 days were up with the State. It was an unfortunate and inadvertent error. They do not want the employee to suffer from her error.

**Agenda Item 14 - Future Meetings/Agendas:** The next meeting will be held on Monday, March 20, 2006, in the TierOne Community Meeting Room at 1221 N Street, Lincoln, Nebraska. The Technology Update will be given in March. We are planning on also having on the agenda the Ameritas Annual Report, hopefully the Hartford Annual Report, and a legislative update.

Mr. Rea suggested a list of all trainings available for the remainder of the year be prepared for the Board members.

**Agenda Items 15 and 16 - Executive Session:** At 11:44 a.m., Mr. Rea moved that the Board exit Regular Session and convene in Executive Session for the purpose of discussing disability applications, a contested case appeal, vesting credit deadline, and the State/County/ DCP Record Keeping Bids/Contract Award. Mr. Blank seconded the motion. Members voted as follows: For: R. Rea, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, C. Peters, and D. Blank,. Against: None. Motion carried.

At 1:10 p.m., Mr. Blank moved that the Board exit Executive Session and reconvene in Regular Session. Motion was seconded by Sgt. Elwell. Members voted as follows: For: M. Shepard, G. Elwell, G. Camerer, R. Wassinger, C. Peters, D. Blank, and R. Rea. Against: None. Motion carried.



Mr. Rea moved that the disability applications of M. Augstums, K. Anderson, D. Wandfluh, and J. Chleborad be approved. Judge Camerer seconded the motion. Members voted as follows: For: G. Elwell, G. Camerer, R. Wassinger, C. Peters, D. Blank, R. Rea, and M. Shepard. Against: None. Motion carried.

Mr. Rea moved that application for E. Fidler be referred to staff to obtain a second medical opinion. Mr. Blank seconded the motion. Members voted as follows: For: G. Camerer, R. Wassinger, R. Rea, M. Shepard, G. Elwell, C. Peters, and D. Blank. Against: None. Motion carried.

Mr. Rea moved that the Hearing Officer Findings of Fact, Conclusions of Law be adopted and the Board reaffirm their previous action in the T. Nesbitt appeal. Mr. Blank seconded the motion. Members voted as follows: For: R. Wassinger, C. Peters, D. Blank, R. Rea, M. Shepard, and G. Camerer. Abstained: G. Elwell. Against: None. Motion carried.

Mr. Rea moved that the Application for Vesting Credit of T. Stutzman be approved. Judge Camerer seconded the motion. Members voted as follows: For: C. Peters, D. Blank, R. Rea, M. Shepard, G. Elwell, G. Camerer, and R. Wassinger. Against: None. Motion carried.

Mr. Blank moved that the State and County DCP recordkeeping contract be awarded to Union Bank & Trust Co. Mr. Rea seconded the motion. Members voted as follows: For: D. Blank, R. Rea, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, and C. Peters. Against: None. Motion carried.

**Agenda Item No. 17 - Adjournment:** Judge Camerer moved that the meeting adjourn. Motion was seconded by Sgt. Elwell. Members voted as follows: For: R. Rea, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, C. Peters, and D. Blank,. Against: None. Motion carried.

The meeting adjourned at 1:17 p.m.

Anna J. Sullivan  
Director